IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4794 of 2002

with

SPECIAL CIVIL APPLICATION No 5025 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VINUBHAI RANCHODBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4794 of 2002
   MR SHIRISH JOSHI for Petitioner No. 1
   MR DIPEN DESAI, AGP for Respondent No. 1-3
   MRS RANJAN B PATEL for Respondent No. 1
   MR BS PATEL for Respondent No. 4
2. Special Civil Application No. 5025 of 2002
   MR BAIJU JOSHI for Petitioner No. 1
   MR DIPEN DESAI, AGP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 28/10/2004

COMMON ORAL JUDGEMENT

In both these petitions under Article 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Revisional Authority State Government dated 20.4.2002/22.4.2002 in Revision Application No.159 of 2001 as well as the order dated 19.4.2002 passed in Revision Application No.164 of 2001 by which the Revisional Authority has quashed and set aside the order passed by the Authority passed under Section 76-B of the Gujarat Cooperative Societies Act in passing an order of disqualification of the respondent no.4.

2. The District Registrar, Nadiad passed an order under Section 76-B of the Gujarat Cooperative Societies Act disqualifying the respondent no.4 and further passed an order disqualifying him for a further period of four years. The said order dated 11.5.2004 came to be challenged before the Appellate Authority i.e. Additional Secretary (Appeals) by the respondent no.4 and in the said revision application, the Additional Registrar (Appeals) partly allowed Revision Application No.77 of 2001 in so far as quashing and setting aside the order passed by the District Registrar disqualifying the respondent no.4 for a period of four years. The said order came to be passed on 25.9.2001. Being aggrieved and dissatisfied with the judgment and order dated 25.9.2001 passed by the Additional Registrar (Appeals), Cooperative Societies, State of Gujarat, Gandhinagar in Revision Application No.77 of 2001 in partly allowing the same, the petitioner preferred Revision Application before the State Government and it is the case of the petitioner that in the revision application filed by the petitioner against the judgment and order dated 25.9.2001 in Revision Application No.77 of 2001, the State Government Revisional Authority not only dismissed the Revision Application but also quashed and set aside the original order passed by the District Registrar under Section 76-B of the Gujarat Cooperative Societies Act with regard to disqualification of the respondent no.4 also and that is why the petitioner had preferred the present petitions under Article 227 of the Constitution of India.

3. It appears that the petitioner came to know that even the respondent no.4 had also preferred revision

application before the State Government challenging the judgment and order dated 25.9.2001 passed by the Additional Registrar (Appeals), Cooperative Societies, State of Gujarat, Gandhinagar in Revision Application No.77 of 2001 and in his revision application, the State Government allowed the said revision application and quashed and set aside the order passed by the District Registrar, Rajkot dated 11.5.2001 and the said order dated 19.4.2002 in Revision Application No.164 of 2001 is the subject matter of SCA No. 5025 of 2002 and both the petitions are heard together.

4. When the matters were called out today, the Learned Advocates appearing for the parties had submitted that during the pendency of the present petitions, the new election of the credit society has already taken place in the month of May/June, 2002 and the respondent no.4 is elected again and therefore, considering the aforesaid facts as such, the present petitions have become infructuous. Even otherwise, considering the fact that the Revisional Authority on appreciation of evidence has quashed and set aside the order passed by the District Registrar, Rajkot under Section 76-B of the Gujarat Cooperative Societies Act by holding that the respondent no.4 could not have been disqualified by exercising powers under Section 76-B of the Gujarat Cooperative Societies Act. This is a petition under Article 227 of the Constitution of India. There is no jurisdictional error, much less, an error of law committed by the Revisional Authority which requires interference of this Court exercising powers under Article 227 of the Constitution of India. While exercising powers under Article 227 of the Constitution of India, this Court is also not required to reappreciate the evidence on record and sit as an Appellate Authority. The Revisional Authority has on appreciation of evidence and considering the facts and circumstances of the case came to a conclusion that the order passed by the District Registrar, Rajkot under Section 76-B of the Gujarat Cooperative Societies Act was not warranted and has quashed and set aside by which, it cannot be said that there is any illegality committed by the Revisional Authority. Considering the aforesaid facts and circumstances of the case, the present petitions are required to be dismissed and are accordingly dismissed. Rule discharged. Adinterim relief, if any, stands vacated forthwith.

(M.R.Shah, J)
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